



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

*Office of Regional Counsel*

*Andrew S. Goldman  
Direct Dial (215) 814-2487*

*Telefax (215) 814-2803*

DEC 01 1999

**OVERNIGHT MAIL**

Kevin A. Gaynor, Esquire  
Vinson and Elkins  
1455 Pennsylvania Avenue, N.W.  
Washington, DC 20004-1008

Douglas Johns, Esquire  
General Electric Company  
One Plastics Avenue  
Pittsfield, MA 01201

Charles E. Merrill, Esquire  
Husch & Eppenberger  
100 N. Broadway  
Suite 1300  
St. Louis, MO 63102

George Armistead, Esquire  
McNeer, Highland, McMunn & Varner, PC  
168 Chancery Row  
Morgantown, WV 26507-1615

**Re: Ordnance Works Disposal Areas Superfund Site: Notice Revoking  
Suspension of Requirements Under Administrative Order No. III-  
90-27-DC & Modification No. 1 to Administrative Order No. III-90-  
27-DC for Remedial Design/Remedial Action at Operable Unit No. 1**

Dear Counsel:

This letter pertains to Operable Unit No. 1 ("OU1") of the Ordnance Works Disposal Areas Superfund Site ("Site"), for which EPA selected a new remedial action in a Record of Decision ("ROD") dated September 30, 1999. The September 30, 1999 ROD supercedes the September 1989 ROD for OU1. Recall that in June 1990, EPA issued an administrative order directing your clients to implement the September 1989 ROD and that in October 1997, EPA agreed to suspend the requirements of the June 1990 order to facilitate selection of a more effective remedial action for the operable unit. That remedial action has been selected and we are now prepared to resume work at the Site.

Enclosed find a document which:

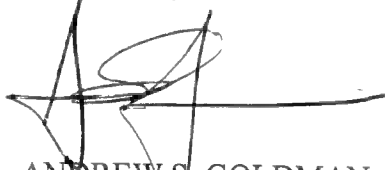
- (a) revokes the October 1997 suspension of requirements under EPA's 1990 administrative order for OU1 of the Site; and

- (b) amends the 1990 administrative order to, among other things, require implementation of the remedy selected in EPA's September 1999 ROD.

Pursuant to Section IV (Effective Date) of the enclosed, the effective date of the revocation/modification is effective as of the date of this letter. Please carefully review the June 1990 order as well as the modifications identified in the attached document to ascertain your clients' responsibilities under the order.

Please do not hesitate to contact me at (215) 814-2487 if you have any questions concerning this matter.

Respectfully,

A handwritten signature in black ink, appearing to be 'ASG', written over a horizontal line.

ANDREW S. GOLDMAN  
Sr. Assistant Regional Counsel

Enclosure

cc: Chris Matta (3HS23)  
Steven Morrow (Project Coordinator)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>IN THE MATTER OF:</b>	:
	:
	:
<b>ORDNANCE WORKS DISPOSAL</b>	:
<b>AREAS SUPERFUND SITE</b>	: <b>EPA Docket No.</b>
	:
<b>Olin Corporation; Rockwell</b>	: <b>III-90-27-DC</b>
<b>International Corporation;</b>	:
<b>General Electric Company; and</b>	:
<b>Morgantown Industrial Park</b>	:
<b>Associates, Limited Partnership;</b>	:
	:
<b>Respondents</b>	:
	:
<b>Proceeding under Sections 106</b>	:
<b>of the Comprehensive Environmental</b>	:
<b>Response, Compensation, and Liability</b>	:
<b>Act of 1980, as amended, 42 U.S.C.</b>	:
<b>§ 9606</b>	:

**NOTICE REVOKING SUSPENSION OF REQUIREMENTS  
UNDER ADMINISTRATIVE ORDER NO. III-90-27-DC/  
MODIFICATION NO. 1 TO ADMINISTRATIVE ORDER  
NO. III-90-27-DC FOR REMEDIAL DESIGN AND REMEDIAL  
ACTION AT OPERABLE UNIT NO. 1**

WHEREAS, on September 29, 1989 the United States Environmental Protection Agency ("EPA") issued a Record of Decision for Operable Unit No. 1 of the Ordnance Works Disposal Areas Superfund Site in Morgantown, West Virginia ("September 1989 ROD");

WHEREAS, on June 20, 1990, EPA issued Administrative Order No. III-90-27-DC ("June 1990 Order") directing Rockwell International Corporation, Olin Corporation, General Electric Company; and Morgantown Industrial Park Associates, Limited Partnership (collectively "Respondents") to implement the remedial action selected by EPA in the September 1989 ROD;

WHEREAS, information provided to EPA by the Respondents during the course of remedial design indicated that the remedial action selected in the September 1989 ROD would not attain the cleanup standards selected in the September 1989 ROD within a reasonable timeframe;

WHEREAS, on October 1, 1997, EPA signed an Administrative Order on Consent ("1997 Consent Order") with several Respondents under which such Respondents agreed to perform a Focused Feasibility Study to identify and evaluate alternatives to the remedial action selected in the September 1989 ROD;

WHEREAS, the 1997 Consent Order additionally contained a provision suspending all requirements of the June 1990 Order until further notice as well as a provision making clear that EPA could revoke the suspension at any time;

WHEREAS, on September 30, 1999 EPA issued a Record of Decision for Operable Unit No. 1 of the Ordnance Works Disposal Areas Superfund Site ("September 1999 ROD") which supercedes the September 1989 ROD;

WHEREAS, EPA has notified the State of West Virginia of the issuance of this *Notice Revoking Suspension of Requirements Under Administrative Order No. III-90-27-DC/ Modification No. 1 to Administrative Order No. III-90-27-DC for Remedial Design and Remedial Action at Operable Unit No. 1* ("Notice and Modification");

THEREFORE, EPA hereby issues this Notice and Modification which revokes the suspension of the requirements of the June 1990 Order and modifies the June 1990 Order as follows:

## **I. REVOCATION OF SUSPENSION OF ORDER REQUIREMENTS**

Pursuant to Section XXIX of the 1997 Consent Order, EPA hereby revokes the suspension of requirements under the June 1990 Order. The effective date of this revocation shall be the date on which the Project Coordinator designated by Respondents pursuant to Section VIII.A of the June 1990 Order receives a copy of this document.

## **II. MODIFICATION TO ADMINISTRATIVE ORDER NO. III-90-27-DC**

A. As of the effective date of this Notice and Modification, and except as used in Section III (Findings of Fact) of the June 1990 Order, the terms "September 1989 ROD" shall mean the September 1999 ROD.

B. As of the effective date of this Notice and Modification, the terms "effective date of this Order" which appear in the first sentence of Section VI.B and the second sentence of Section VI.C (1) of the June 1990 Order shall mean the effective date of this Notice and Modification.

C. As of the effective date of this Notice and Modification, Section VI.D(2)(a) is struck from the June 1990 Order.

D. As of the effective date of this Notice and Modification, the terms "effective date of this Order" which appear in the first sentence of Section VI.F shall mean the effective date of this Notice and Modification.

E. As of the effective date of this Notice and Modification, the second sentence of Section VI.H shall read as follows:

"A copy of all such documents shall simultaneously be submitted to the State of West Virginia at the following address, or at such address as may later be provided by the State of West Virginia:

Mark Slusarski, P.G.  
Geologist III  
West Virginia Division of Environmental Protection  
1356 Hansford Street  
Charleston, WV 25301  
304-558-2745

F. As of the effective date of this Notice and Modification, Section VI.I and VI.J of the June 1990 Order are struck from the June 1990 Order.

G. The EPA Project Coordinator designated pursuant to Section VIII of the June 1990 Order is as follows:

Christian Matta (3HS23)  
Remedial Project Manager  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19107  
(215) 814-2317

H. As of the effective date of this Notice and Modification, Section XI (Quality Assurance) of the June 1990 Order is replaced with the following:

"While conducting all sample collection and analysis activities required by this Consent Decree, the Respondents shall implement quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operation," (US EPA Quality Assurance Management Staff: August 1994) (EPA QA/R-5); "EPA NEIC Policies and Procedures Manual," (May 1986) (EPA 330/978-001-R); National Functional Guidelines for Inorganic Data Review (EPA 540/R-94/013) and Modifications to the National Functional Guidelines for Inorganic Data Review (EPA Region III: April 1993); National Functional Guidelines for Organic Data Review (EPA 540/R-94/012) and Modifications to the National Functional Guidelines for Organic Data Review (EPA Region III: September 1994); "Region III Innovative Approaches to Data Validation," (EPA Region III: September

1994); "Data Quality Objectives Process for Superfund," (EPA 540/R-93/071: September 1994); and subsequent amendments to such guidelines upon notification by EPA to Respondents of such amendment. Amended guidelines shall apply only to procedures conducted after such notification. Prior to the commencement of any monitoring project under this Order, Respondents shall submit to EPA for approval a Quality Assurance Project Plan ("QAPjP") for the Work that is consistent with the NCP and the guidance documents cited above. Respondents shall ensure that EPA and State personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Respondents in implementing this Order. In addition, Respondents shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPjP for quality assurance monitoring. Respondents shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Order perform all analyses according to accepted EPA methods. Respondents shall submit to EPA the selected laboratory's(ies') Quality Assurance Program Plan ("QAPP") and their qualifications, which shall include, at a minimum, previous certifications, Performance Evaluation ("PE") results, equipment lists and personnel résumés. Respondents shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Order will be conducted in accordance with the procedures set forth in the QAPjP approved by EPA. At the request of EPA, Respondents shall conduct one or more audits of the selected laboratory(ies) to verify analytical capability and compliance with the QAPjP. Auditors shall conduct lab audits during the time the laboratory(ies) is analyzing samples collected pursuant to this Order. The lab audit shall be conducted according to procedures available from the Office of Analytical Services and Quality Assurance, EPA Region III. Audit reports shall be submitted to the EPA Remedial Project Manager within fifteen (15) days of completion of the audit. The Respondents shall report deficiencies, including all those which adversely impact data quality, reliability, or accuracy, and take action to correct such deficiencies within twenty-four (24) hours of the time the Respondents knew or should have known of the deficiency.

I. The second sentence of Section XIV.E of the June 1990 Order is modified to read as follows:

"Failure to comply with this Order subjects Respondents to the assessment of civil penalties of up to \$27,500 per day and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure pursuant to sections 106(b) and 107(c) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(a), and 40 C.F.R. Part 19."

F. Section XVIII (Administrative Record) of the June 1990 Order is modified to read as follows:

"The Administrative Record compiled in support of this Order may be reviewed at the EPA Region III offices by contacting the Project Coordinator designated by EPA in accordance with Section VIII of this Order."

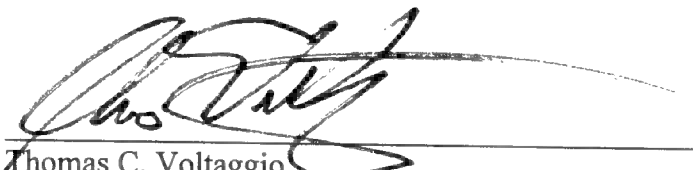
### **III. LIMITATION OF MODIFICATION**

Except as provided herein, nothing in this Notice and Modification shall alter or otherwise affect any term, condition, or requirement of the June 1990 Order.

### **IV. EFFECTIVE DATE**

Except as provided in Section I, the effective date of this Notice and Modification shall be the date on which a signed copy of this Notice and Modification is forwarded to Respondents' counsel.

**SO ORDERED.**

  
\_\_\_\_\_  
Thomas C. Voltaggio  
Acting Regional Administrator  
EPA Region III

DEC 01 1999

\_\_\_\_\_  
Date